

**BOARD OF DIRECTORS
METROPOLITAN DOMESTIC WATER IMPROVEMENT DISTRICT
PIMA COUNTY, ARIZONA**

August 10, 2009

**** Board Room **
Metropolitan Domestic Water Improvement District
6265 N. La Cañada Drive
Tucson, AZ 85704**

MINUTES

Board Members Present: Jim Doyle, Chair
James Tripp, Vice Chair
Bryan Foulk, Member
Reb Guillot, Member
Dan M. Offret, Member

District Staff: Mark Stratton, General Manager
Michael McNulty, Legal Counsel
Warren Tenney, Clerk of the Board
Tullie Noltin, Recorder

Regular Session

I. Call to Order and Roll Call

Jim Doyle, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 6:00 p.m. Jim Doyle, James Tripp, Bryan Foulk, Reb Guillot, and Dan M. Offret were present.

II. General Comments from the Public

There were no comments from the public.

III. Consent Agenda

- A. Approval of Minutes – July 13, 2009 Board Meeting.**
- B. Approval of Minutes – July 28, 2009 Special Board Meeting.**
- C. Ratification of Billing Adjustments.**
- D. Approval of Intergovernmental Agreement with Pima County to Provide Fuel and Vehicle Maintenance.**

Mr. Tripp made a motion to approve the consent agenda. Mr. Foulk seconded the motion. Motion passed unanimously.

IV. General Business - Items for Discussion and Possible Action

A. Monthly Status of the District.

Mr. Stratton explained that Water Usage shown on the Monthly Status Report has generally been based on production data collected every four or five weeks, with the possibility of slight variation in period length. Staff has revisited the numbers in the Monthly Status Report to usage rather than production. The trends show single-family usage was about 3.6% less than it was in July 2008, whereas multi-family usage was up 24%.

Mr. Offret asked if there had been an increase in multi-family construction. Mr. Stratton said no.

Mr. Foulk mentioned a news article reporting multi-family dwellings have been showing lower occupancy rates compared with previous years.

Mr. Stratton explained staff will use actual usage data, and not production data, in future reports in order to reflect revenue changes more accurately. The Ina/La Cañada Mainline Replacement project is going well and moving ahead of schedule. This week is the start of the Waterline Relocation and the "C" Zone Transmission work on La Cañada, and some of the equipment is in place, alongside the other utility contractors.

B. Financial Report.

Mike Land, Chief Financial Officer, said the auditors began today with a staff of four. They will be at the District office for about a week and a half, and they have a completion goal of mid-September. Unaudited figures through the end of the year showed the District was slightly over \$1,000,000 short of budget. Compared with last fiscal year, the District ended with about \$930,000 less revenue over expenditures. For the first time, the District had no new meter applications.

Mr. Foulk asked why the July 2009 Preliminary Financial Indicators show higher sales but lower gallons billed. Mr. Land explained the higher revenues are because of the rate increase.

C. Resolution 2009-3 – Waiver of System Development Fee Under Specific Circumstances.

Mr. Tripp made a motion to approve Resolution 2009-3, which waives the System Development Fee for new customers under specific circumstances as outlined in the Resolution. Mr. Offret seconded the motion.

Mr. Offret asked if there is a legal reason why capping the well is not addressed within the Resolution. The new customer says they will discontinue groundwater withdrawal, but Mr. Offret sees no assurance of that. Mr. Stratton said the problem with capping or abandoning the well is that it can cost the customer more than what they would be saving in system development fees. Mr. Stratton believes having the Resolution included as part of the connection paperwork stipulates the customer must discontinue use of the well, and the District reserves the right to

disconnect them from the system in the event they do use the well. He added the Resolution is being created based on the customer's economic need, so it would not make sense to require additional steps that would cost them money.

Mr. Offret said he wants enforcement included, because the incentive may not be enough to keep the customer from using their well.

Mr. Foulk said the customer's incentive to connect to the system is that their well is having problems and it will cost the customer to repair it.

Mr. Hill added an alternative to abandonment could be to install backflow protection and/or simply disconnect the pipe.

Mr. Offret asked if the District could state the service would have to be discontinued (if the well was used) and in order to resume service, the customer must pay the system development fee. Mr. Foulk agreed it would be appropriate to state the consequence. Mr. Stratton said the Resolution can stand on its own, as a written document of the customer's acceptance. The Resolution is a legal document of the waiver of system development fee on the condition of discontinuation of well use, and will be signed by the customer.

Michael McNulty, Legal Counsel, said he is comfortable with this particular customer, but in the future the District will need a short agreement stipulating all the requirements for not using the well. Mr. Stratton said the Resolution will be a recorded document.

Mr. McNulty suggested the Board could amend the motion to say they are approving it, and directing that future agreements include a portable document.

Charlie Maish, District Engineer, added the water service agreement will come to the Board of Directors for approval once the owner is ready to move forward. He suggested language could be included in the water service agreement, which is a legal document. Mr. Stratton he feels there is a need for a recorded document in addition to the water service agreement. Mr. Stratton said staff can work with Legal Counsel to ensure proper documentation is kept.

Mr. Offret asked whether it was necessary to amend the motion.

Warren Tenney, Assistant General Manager, said the motion was okay with the current language, because it states that there would be "an agreement" to discontinue use of the private well, which means an agreement would be developed that states the requirements in more detail.

Motion passed unanimously.

D. Approval of Continued Membership in the Water Conservation Alliance of Southern Arizona.

Mr. Tripp made a motion to approve the member agreement for continued membership with Water Conservation Alliance of Southern Arizona (Water CASA) with a contribution of \$31,910 for the fiscal year '09-'10. Mr. Offret seconded the motion.

Mr. Foulk said he was not familiar with Water CASA. He asked what the District receives as part of the membership. Mr. Stratton asked Val Little, Director of Water CASA to explain the value of the membership. Mr. Stratton said the District was one of the Water CASA founders, and since then they have provided a lot of support.

Ms. Little explained she was willing to meet with Mr. Foulk at his convenience to provide more detail, since he was not familiar with Water CASA. The genesis of the program twelve years ago was that individual water providers could not afford to have their own conservation offices. Water CASA provides assistance to several water providers, working on individual programs, and cooperative projects. Water CASA also performs research. Water CASA uses soft money, and is able to expand and contract according to need. The program hires graduate students and young professionals as needed.

Mr. Offret asked Ms. Little about the current \$10,000 rate structure analysis that the Board approved in December 2005. Ms. Little said she was not prepared to discuss findings of the study, but she has put in many hours since the first of the year, and estimated she has probably exceeded the number of estimated hours. However, she is willing to spend more time in order to complete the study because she values Metro Water District's partnership. She concurred with Mr. Stratton's previous report, that over a long period of time she has seen a general falloff in usage among single-family users, but that is not the case for the multi-family sector. Multi-family users are much less predictable and inefficient. She plans to come back with a PowerPoint presentation, using a data set from the Metro Water District. She has also performed a literature search on other providers about rates. Mr. Stratton added the literature search Ms. Little performed highlighted other provider rates and consumption. She also brought an example of a provider in Los Angeles with a unique billing system that targets efficiency, which has helped the District consider new ideas with regards to developing rate structure.

Mr. Offret said he is looking forward to Ms. Little's report. He also asked how much the Graywater/Water Harvesting rebate program costs. Mr. Tenney said the District offers a \$50.00 rebate for materials used for installing a graywater or water harvesting system. This year eight rebates have been granted, and there have been 44 total since the program's inception.

Motion passed unanimously.

E. Amendment No. 13 of Interim Remedial Action Contract with the Arizona Department of Environmental Quality for the South Shannon Treatment System.

Mr. Tripp made a motion to approve Amendment No. 13 of the Interim Remedial Action Contract at the South Shannon Facility between ADEQ and Metropolitan Domestic Water Improvement District with a reimbursement cap of \$39,518 for August and September 2009. Mr. Foulk seconded the motion.

Mr. Offret asked about ADEQ's ability to fully reimburse the District for an exchange. Mike Block, District Hydrologist, said it just seems that way because he overcharged for one by mistake (which he also explained at a previous meeting).

Motion passed unanimously.

F. Status of Northeast Reservoir Booster Station Facility Flood Repair.

Mr. Stratton explained the District is close to coming to a final resolution. They are redoing the last few documents and are almost ready to write a settlement check. Staff is in the process of scheduling a time for the pump manufacturer to pull the pump that recently failed and inspect it. Mr. Stratton had a conversation with the adjuster about warranty items versus insurance-covered items, which are somewhat intermingled. The parties are still trying to get resolution. From a cost-perspective, staff needs to look at Brown & Caldwell's recommendation to replace individual components within the cabinet. Mr. Stratton believes it could be less expensive to replace the cabinet as a whole. He believes a conclusion is near.

Mr. Offret pointed out a sentence in the report referring to a meeting where all affected parties were invited, yet he noticed Fairbanks Morris did not come. He said if the pumps are bad, Fairbanks Morris should supply the District with a different style of pump. Mr. Stratton said those discussions are already taking place. Mr. Maish said the idea was touched on at the last meeting. There are discussions on whether the manufacturer could change the design to get rid of the enclosing tube and leave an open shaft. They were trying to get authorization from their main office, and as soon as the District receives direction the pump will be removed. Fairbanks Morris brought the changes up. Mr. Maish said the pumps have been in operation since April 2008.

Mr. Offret stated he has no confidence in the pumps. Mr. Offret encouraged staff to continue the discussions and hopes a new pump can be installed at no cost.

G. Negotiations Update with Tucson Unified School District for Well Site.

Mr. Stratton gave an update on the Tucson Unified School District (TUSD) negotiations. Legal Counsel has worked with staff to develop the Intergovernmental Agreement (IGA) and details of the sale of the property, which staff is reviewing. This matter is on the August 11, 2009 TUSD Board Meeting Agenda.

Mr. Guillot asked if there had been a meeting within TUSD to determine percentages of the sale price would go to TUSD and the individual schools. Mr. Block said he had raised that question and there was interest by the school and Parent Teacher Association to have those details in the purchase agreement, but their attorney decided that would be a separate motion by the TUSD Board. He is not certain whether that issue may be talked about in tomorrow's executive session.

H. Metro-Main and Metro-Hub Bedrock and Geologic Fault Mapping Projects.

Mr. Block explained there were some savings from the Arizona Department of Environmental Quality (ADEQ) in the Monitoring Waivers program. The District used the savings to have Clear

Creek Associates (through hydroGEOPHYSICS Inc.) conduct a Gravity Study both in Metro-Main and Metro-Hub.

Greg Hess of Clear Creek showed a PowerPoint presentation, entitled *Mapping of Bedrock and Faults in Metro-Main and Metro-Hub Using the Gravity Method*. Gary Burchard, Hydrogeologist, explained staff recommendations on the final slide, which is also explained in detail within the final report. The recommendations are as follows: 1) Lithology changes dramatically over short distances. Staff recommends continuation of exploratory drilling. 2) The Gravity model is beneficial for estimating depth to bedrock. Staff recommends the model be updated with new information from exploratory drilling. 3) Geologic faults do not cause poor production at Lambert/La Cholla. Staff recommends preparation of plans to improve yield, abandon, or drill replacement for Board's consideration next fiscal year. Mr. Burchard explained the study gives the District information on the depth of the bedrock. This lets the District know the bottom of the aquifer in its service area but it does not specify the type of material between the surface and the bedrock, which affects the productivity of the aquifer.

Mr. Guillot asked if there is any way to find out how deep the core is at Hub Well No. 7. Mr. Burchard explained there are techniques to find depth of existing wells. It becomes more difficult when working with an exploration hole, where the production is unknown. In the case of Hub No. 7, the initial cuttings were misleading, because they indicated the well would be very productive, but it turned out that was not the case. There are some other ways of testing hydraulically at specific locations to gain a qualitative sense.

Mr. Guillot asked how deep Hub No. 7 was drilled. Mr. Burchard said the crew drilled to about 600 feet, and found clay from 400-600 ft., which meant the production quality was terrible. The well was completed to about 400 feet, almost the same depth as Hub No. 3.

Mr. Guillot asked if the charts in the presentation are graphically illustrative of what to expect, and could there be clay with sand below, before reaching bedrock around 2500 ft. Mr. Hess said the presentation graphics are strictly conceptual. Mr. Burchard said at the time staff decided to stop using the large rig and resume exploratory drilling later with a less expensive, smaller rig.

Mr. Stratton said there are different formations of alluvium. Historically the Pantano formation is not shown to be very productive. The District would like to know where the formation starts within the service area, and what is below the formation.

Mr. Burchard added drilling is like mining; one does not know how much farther it is to the payoff, but exploration drilling is a less expensive approach.

I. Resolution 2009-4, Debt Authorization with Water Infrastructure Finance Authority of Arizona (WIFA) Loan.

Mr. Tripp made a motion to approve and adopt Resolution 2009-4 that will authorize the District to incur debt through the execution of a loan agreement with WIFA of Arizona for an amount not to exceed \$3,950,000. Mr. Offret seconded the motion.

Mr. Foulk asked if the resolution will work, and Mr. Stratton nodded yes.

Motion passed unanimously.

V. General Manager's Report

Mr. Stratton explained he had a meeting last week with the Bureau of Reclamation (the Bureau) to go over the preliminary conceptual design for their Reliability Reservoir. There are still some questions related to the recreational aspect of the reservoir. Those questions need to be finalized by the other parties before the District can move forward. One of the designs is a three-sided reservoir, which would require extension of the membrane and would have higher costs than a self-contained four-sided design. The Bureau needs to continue discussions with the Town of Marana and others involved in the recreational side. The District is concerned about making sure there is enough water to meet demand, from the water provider standpoint, and that the water is there when needed. The costs for the conceptual design are down about \$15,000,000. Next year's budget will look at increasing funds related to the environmental assessment and design work. At that time, there will be a push to make sure there are appropriations at the Federal level. A fairly large sum of money will need to be appropriated, so efforts are being made to ensure money is put into the Bureau's budget.

Mr. Offret asked whether the Town of Marana is expected to pay almost all the expenses. Mr. Stratton said that is only true of the recreational side. Some monies are from the Bureau, but from another funding source aside from the funds for reliability.

Mr. Offret pointed out the Bureau uses recreational improvements and environmental concerns on the Colorado River in part as public relations. Mr. Stratton believes the Bureau is doing the same for this project, but said District staff is just not a part of those discussions. The District's concern is that out of the authorized monies under the plan for the CAP system, \$92,000,000 was never appropriated. Those monies are being looked at to make sure water needs are accomplished. Mr. Offret asked if that estimate has been lowered to \$60,000,000, and Mr. Stratton confirmed.

Mr. Stratton said the Diablo Village/Thim acquisition is progressing, and the Arizona Corporation Commission (ACC) hearing went well. Information was provided to the hearing officer but because the Lazy B portion was excluded in the original report, the public comment period was extended. Approval will be considered at the ACC's September meeting, and is expected to run smoothly. Many of the title issues have been cleared up, but two remaining property lien issues need to be resolved. One is a large lien on the property, rather than the easement. Tierra Right-of-Way has been working on those issues and has been in contact with the lien holders. WIFA is expected to approve the loan in October. Closing will occur within 120 days from the date ACC recommendation.

Mr. Offret thanked Mr. Stratton for holding the line with regards to rolling the bond indebtedness into the refinancing. He was pleased the refinancing issue was not extended beyond 2019. Mr. Stratton said some of the past discussions in relation to the Northwest CAP show the District

may be able to minimize future impact of rate increases utilizing existing debt services. Mr. Offret added that would be the case only if the District goes the bond route.

Mr. Stratton said there was an article in the Northwest Explorer about Tucson Water and Oro Valley regarding wheeling rates. He wanted to point out that the District is also involved in that, and the three entities are working together and considering hiring a consultant to evaluate what those wheeling rates should be. Jeff Biggs, Director of Tucson Water, said in a meeting he was uncomfortable with the numbers being generated, and he thought it might be more appropriate to hire a consultant rather than cloud the issue with staff-generated costs. Before a consultant can be hired certain details need to be fine-tuned, so there will be another meeting with Mr. Biggs in early September.

Mr. Stratton said the rate structure analysis is going well, and he wants to be certain the Board is in agreement. Input from the Board will be essential, so he would like a Study Session to be scheduled in August.

There are upcoming meetings the Board Members may attend if they so choose. There is a Western Coalition of Arid States (WESTCAS) meeting in October, hosted at Westward Look. Organizers are trying to get the Environmental Protection Agency (EPA) Administrator to make a brief presentation. The annual Colorado River Water Users Association (CRWUA) will also meet in December, and he strongly recommended attendance.

Mr. Stratton mentioned last week at the Groundwater Replenishment District (GRD) Committee meeting, there was a presentation by CAP staff on the Avra Valley Recharge Project. There seems to be support despite some issues about funds. The committee has directed staff to negotiate with the District on the total cost, and what the value of effluent is from a GRD standpoint.

VI. Legal Counsel's Report

Mr. McNulty was contacted by a lawyer named Spencer Smith, who has been approached by a group of multi-family landlords and apartment managers who intend to file a lawsuit regarding the District's rates. He called as a courtesy to notify the District of the notice of claim. Mr. Stratton has also been contacted.

Mr. McNulty said there have been problems in the past with fixing Thim title problems, so Legal Counsel insisted Thim record the status of each issue every month. Mr. Stratton added the reports are coming weekly from Tierra Right-of-Way.

Mr. McNulty spoke with John Hinderaker, Legal Counsel, who said the settlement with Sun Western is complete.

Mr. McNulty said materials on Open Meeting Laws were provided to the Board. The Attorney General regulates board member communication outside publicly noticed meetings. Email communications from the General Manager can be responded to individually, but Board

Members should not send emails to all Board Members. He wanted to remind the Board of this information.

Mr. Foulk asked what claim the multi-family users are making. Mr. McNulty explained that challenging rate-setting is a tough process. A very high threshold must be achieved. They would have to establish the District is treating people within the same class differently. Secondly, they would have to show people in one class are being asked to finance costs arising under a different class. The District is allowed to impose policy considerations that will impact rates, like conservation efforts.

Mr. Stratton said the email he received was related specifically to how flows are calculated on the fire meters at certain complexes. Mr. Stratton will be meeting with two people later this month. The District has used the same methods since 1995, and Oro Valley does the same. The multi-family users want lower rates.

Mr. Foulk feels a lawsuit would be a difficult way to achieve lower rates. He asked if the meters are handled the same way nationally. Mr. Stratton said the methods are not uniform, and each utility chooses how to handle it. He said within Tucson Water, multi-family users pay a lower rate than single-family users for unknown reasons. In other areas, multi-family users pay much more, so there is no uniformity. He will have research ready for the meeting on August 25, 2009.

VII. Future Meeting Dates; Future Agenda Items

There will be a Study Session on Monday, August 24th at 5:30 pm. The next regularly scheduled meeting of the Board of Directors will be held on Monday, Sept 14th at 6:00 pm.

VIII. General Comments From the Public

There were no comments from the public.

IX. Adjournment

Mr. Tripp made a motion to adjourn. The meeting adjourned at 7:15 p.m.

Jim Doyle, Chair of the Board

Warren Tenney, Clerk of the Board